

# Denver Law Review

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THE DENVER BAR ASSOCIATION  
**R E C O R D**

P U B L I S H E D M O N T H L Y

VOL. I

DENVER, MAY, 1924

No. 6

**NOTICE OF NEXT MEETING**

*Time—*

Monday, May 5, 1924, at 12:15 Sharp.

*Place—*

The Dining Room of Chamber of Commerce, Champa street between 17th and 18th. Lunch 75 cents.

*Subject for Discussion—*

**“THE BAR—A BODY POLITIC”**

Program by the Committee on Bar Organization.

Hon. John H. Denison, Justice of the Supreme Court.

Hon. Charles C. Butler, Judge of the District Court.

John H. Fry.

W. W. Grant, Jr.

Stanley T. Wallbank, Chairman.

*All Practicing Attorneys Invited*

This is one of the most important meetings held by our Association in years. The proposition deals with the thorough organization of the entire Bar of Colorado with powers of self-government, including admission, discipline, unlawful practice and disbarment. Our Association does not desire to act hastily on this matter and greatly desires the intelligent opinion of all. Will you be at this meeting?

## The Denver Bar Association Record

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### OFFICERS

Hugh McLean .....President  
 James Grafton Rogers .....First Vice-President  
 Philip S. Van Cise .....Second Vice-President  
 Jacob V. Schaetzel.....Secretary-Treasurer  
 718 Symes Bldg., Main 580

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### WHAT DOES IT MEAN?

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#### "The Bar—A Body Politic."

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The subject for discussion on May 5 is interesting the entire profession in the United States at this time. The proposed act regulates the practice of law in Colorado, defines the practice of law, and sets out the punishment to those who practice law without a license. It proposes a separate body entirely under the supervision of the Supreme Court and the license fee shall be an amount not in excess of \$25.00 per year. The funds to be expended for the benefit of itself, the Colorado Bar Association and local associations. Many more provisions are included in the proposed act.

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### ELECTION OF OFFICERS

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The following officers were elected at the annual meeting held on April 28, to take office July 1, 1924:

President, Stanley T. Wallbank.

First Vice President, W. W. Grant, Jr.

Second Vice President, Kenneth W. Robinson.

Trustees, James A. Marsh and Herbert M. Munroe.

Under our new by-laws, the secretary-treasurer, executive committee, and all committees are named by the president. Announcement of those appointed will be given later.

### SPORTING SECTION

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Former Judge H. C. Riddle and Assistant City Attorney Milnor E. Gleaves, staged a one-round boxing match at the Court House a short time ago. Judge Johnson, acting as referee decided that both had put up such a poor fight that he was compelled to fine each \$50.00. The "Record" is very anxious to get a "scoop" on matters of this kind and if the participants will tip us off we will have a special reporter and photographer there to properly record the event for posterity.

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### BY-LAWS AMENDED

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At the annual meeting our by-laws were amended. The dues have been increased to \$6.00 per annum, the Library fund receiving two-fifths of that amount and the general fund the balance.

In taking new applications please attach check for \$6.00.

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The annual meeting was a great success. Former Governor Oliver H. Shoup as well as Sidney B. Whipple, editor of the Denver Express, spoke. Mr. Shoup's talk dwelt on the necessity of having Constitutional Government and he also stated that he thought the time was ripe to introduce religious education in our public schools; not along sectarian lines, however. Mr. Whipple, a graduate of Dartmouth college and editor of the Denver Express, talked about the press; stating that it should be fearless in exposing crime, negligence of public officials, and other evils, and should at all times be in advance of the people generally. He deprecated the fact that some found it necessary to belong to secret organizations which attempt to control government by underhand and unlawful means. His talk was well received, because we all admire fearlessness.

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### WANTED

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The secretary's office has on hand several applicants who desire connection with responsible law firms. If you are in need of an assistant, phone or write the secretary, and he will be glad to give you personal attention, and without mention of your name to the applicant.

## WHEN IT PAID TO BE A CRIMINAL LAWYER

New York, April 13.—Entering his apartment early today, Frank W. Stanton, a criminal lawyer, encountered two burglars, ready to depart with jewelry worth \$4,000. He threw up his hands and the men drew revolvers.

"Go ahead," he said. "I won't resist. The joke's on me. I've been defending you fellows for nineteen years. I'm Frank Stanton."

"Prove it," commented one of the thieves.

Stanton showed papers establishing his identity.

"Well, I'll be blown!" exclaimed one of the burglars. "Here, take your stuff back. We would not rob you."

## NEW AND REINSTATED MEMBERS

The Membership Committee has reported favorably on the following applicants whose names will be voted on at our meeting on May 5, 1924:

William C. Benton.  
Max P. Zall.

The following have been reinstated to membership on recommendation of the Membership Committee:

Samuel Chutkow.  
M. A. Simpson.  
P. F. Vagnino.  
William H. Andrew.

## REMOVALS

Barnwell S. Stuart, from 1125 First National Bank building, to Suite 938 Equitable building, Denver, Colo.

Jacob J. Lieberman, formerly assistant city and county attorney of Denver, Colo., announces the opening of his offices for the general practice of the law at Suite 1003 Bartlett building, Los Angeles, Calif.

Frederick S. Titsworth, member of the bar of Colorado, and former member of our Association, 32 Nassau street, New York City.

## AMERICA'S CHALLENGE TO THE LEGAL PROFESSION

By Omar E. Garwood.

The Chief Justice of the United States Supreme Court, ex-President Taft, says: "The administration of criminal law in the United States is a disgrace to civilization." "The trial of a criminal seems like a game of chance with all the chances in favor of the criminal, and if he escapes, he seems to have the sympathy of a sporting public."

Coming from such a distinguished source, and from a man who has never been known to indulge in loose statements, these remarks constitute an appalling indictment of our criminal procedure, sufficient, it seems to me, to challenge the best thought and most conscientious inquiry on the part of the legal profession. Since the very beginning of constitutional government in America, lawyers have played the leading part in framing our Federal and State statutes, and establishing customs of practice, and since there have always been three lawyers in most intimate connection with every criminal cause—the lawyer on the bench, the prosecutor, and the defendant's attorney—the profession cannot escape the responsibility which the American public justly or unjustly places upon it for this deplorable state of affairs, in the administration of our criminal law. The man on the street repeatedly says: "You lawyers are to blame for this condition, and it is up to you to remedy it."

The American Bar Association's Special Committee on Law Enforcement, in its 1923 report, stated that our procedural criminal laws are outworn and cumbersome; our system lacks in three great essentials for law enforcement—celerity, certainty and finality. This lack, together with a general public indifference to the situation account in a large measure for the want of respect for law in this country and the failure of its enforcement.

A few of the figures contained in that committee's report ought to be sufficient to explain why the statement is authoritatively made that "the criminal situation in the United States so far as crimes of violence are concerned is worse than in any other civ-

ilized coutry." In 1922 there were only nine cases in the city of London where a trial for murder in the first degree could properly ensue. In 1921 there were 260 murders in New York, 137 in Chicago, and our own fair city of Denver, with one-twentieth of London's population, reported 30 murders in 1923, and our District Court report shows that 18 murder cases were filed in the West Side Court in 1922 and 16 in 1923. In all of England and Wales in 1921 there were 63 murders. France recorded 585 murders in 1919, while 48 American cities, containing about 21,000,000 people, recorded 1,652 murders, about three times the number in France. For the entire United States the murder figure for 1922 was 7,850; our population is roughly three times that of France, yet our murder record is running about 13 times that of France, and 124 times that of England and Wales. The World Almanac places the annual American murder record at 10,000 while the bar committee's report shows that during the last 10 years the annual figure has not fallen below 8,500, making 85,000 for the 10-year period.

Two hundred and three thousand automobiles were stolen in 1923 in 28 American cities. Placing a value of \$200 as a fair average, this means \$40,000,000 worth of property stolen in one article alone. In the number of robberies committed in England and France, as compared with the United States, the figures given in the bar committee's report are so remarkable as to seem incredible, yet the report is based upon a personal visitation to England and France made by members of the committee for the express purpose of getting the facts and personally observing criminal procedure and administration.

With all our pride in the heritage of England's common law, and all our boasts of the accomplishments of law and lawyers in America, how long must we continue to trail so far in the rear of other nations in prevention of crime and the enforcement of criminal law? The answer to this question, of paramount importance at this very hour, is the most stupendous challenge that can be made to the bench and bar of the United States.

(Editor's Note)—We are pleased to say that our legislative committee plans to co-operate with the office of

District Attorney Van Cise (our vice president) in extensive work planned by his office this summer in a proposed revision of the Criminal Code, with particular reference to simplification of procedure. Thus we hope our Association may do its part to meet the urgent need so eloquently set forth in Mr. Garwood's article.)

## ANNUAL REPORTS

Either in some later number of the Record, or in some more permanent form, we hope to print and distribute the interesting reports of officers and committees read at the annual meeting. It is important that all of our 562 members be familiar with the details of the important work the Association is carrying on.

## LAWYERS' FEES

(S. S. Large)

Mr. Kavanaugh's contribution on the subject of fees for examination of titles should make an appeal to every lawyer and comprehensively discloses the real situation.

However, there are two suggestions that might be made:

1. When the \$15.00 fee was adopted, a generation ago, the abstract was only one-third of its present length. If that fee was fair then, a fee of \$45.00 should be fair now.

2. The risk the lawyer assumes in giving a certificate of title is hardly compensated by the fee he receives; this is shown in the fact that the charges made by title guaranty companies for the "guaranty" alone is greater than the lawyer receives for his services and certificate.

The lawyer is the only professional man who adheres to the "old forms"—and allows himself to be imposed upon. So much for "sentiment."

Some sort of standardization is not only possible but is advisable for both client and attorney.

It is entirely up to the profession.

### OLD TIMERS' MEETING

The regular monthly meeting of the Denver Bar Association was held on Monday, April 7, 1924, in the rooms of the Civic and Commercial Association. "Old Timers' Day", the golden anniversary of Denver lawyers who have practiced fifty years or more in this state, was fittingly celebrated. The following Old Timers were present:

George Q. Richmond, admitted March 13, 1871.

D. B. Graham, admitted December 21, 1871.

Herman E. Luthe, admitted May 4, 1872.

Alfred C. Phelps, admitted July 22, 1872.

Platt Rogers, admitted February 19, 1873.

E. A. Colburn, admitted September 12, 1873.

Webster Ballinger, admitted February, 1874.

The following Old Timers were unable to be present:

Charles S. Thomas, admitted December 23, 1871.

John M. Waldron, admitted October 13, 1873.

Robert E. Foote, admitted January 6, 1874.

Channing Sweet, admitted February 4, 1874.

Chase Withrow, admitted February 20, 1874.

Due to the fact that the Twenty-eighth Colorado Report shows the name of H. H. Sales as having been admitted in 1873, we over-looked our good friend, Judge Harry N. Sales, H. H. Sales and Harry N. Sales being one and the same person, and due to his modesty he did not notify the secretary that he was eligible to be included in this list.

The meeting was most successful, more than 250 lawyers being in attendance. Platt Rogers presided. A

splendid speech was given by George Q. Richmond; also a paper prepared by Senator Charles Thomas was read, and all other Old Timers in attendance said a few words.

On the same day our Bar Primary election was held. For the convenience of attorneys three polling places were arranged. According to the rules of the Bar Primary Committee the following names received a sufficient number of votes to qualify as nominees on the Republican ticket for District Judge:

Charles J. Blakeney.

Charles C. Butler.

Henry J. Hersey.

Julian H. Moore.

Charles F. Morris.

Frank McDonough, Sr.

Roger H. Wolcott.

The seven Democrats receiving the necessary number of votes, and who are the Democratic nominees of the Bar Association for the District Bench are:

Henry B. Babb.

William C. Danks.

George F. Dunklee.

Samuel M. January.

J. Warner Mills, Jr.

William F. Mowry.

John M. Wardlaw.

Inasmuch as George A. Luxford, Republican, was unopposed at the primaries, he is designated as the Republican candidate for County Judge.

Oliver Dean and R. W. Steele received an equal number of votes as nominees on the Democratic ticket for County Judge. In accordance with the request of both candidates, Mr Dean and Mr. Steele were both certified as nominees of the Bar Association.

Three hundred and forty-nine votes were cast and when one considers the number of practicing attorneys in this city it indicates a great interest in the selection of judges and represents a total of more than one-half of attorneys actually practicing in Denver.

## OUR USE OF THE ENGLISH LANGUAGE

(Contributed.)

Acting on your suggestion that attorneys contribute articles for the Record, this contribution is suggested by the remark in a recent issue that "Senator Lewis commands exquisite English." Lawyers, of all the professions, should use correct English, not only in the preparation of briefs but in addressing courts and in ordinary conversation, as the use of incorrect English is indicative of a poor foundation for the law, and yet many lawyers are very careless in their selection of words and in the use of ungrammatical expressions.

For instance the words "garnish" and "garnishee" are probably as often incorrectly used as they are correctly. The noun is used frequently when the verb is intended. In Mills' Code under "Garnishment" appears the title, "Who May Be Garnisheed?" It should be "Who May Be Garnished?"

How frequently one hears the incorrect expression "He don't" for "He doesn't."

Three of the defendants or either of them, instead of "or any of them." Either is correct in comparing two only. If more than two, then "any."

"Balance" is frequently incorrectly used when what is meant is simply the "remainder."

Money is "lent" not "loaned."

Money is not divided "between" several people but "among" several people.

As "er" is a Latin preposition it should not be used with an English word, but "per diem" or "per annum" not "per day" nor "per year."

Real estate is "devised" not "bequeathed" and personal property is "bequeathed," and not "devised."

Lien is pronounced in two syllables "li-en" and not "leen."

"Deceased" is commonly used when "decedent" is meant.

And so on ad infinitum.

## ANNUAL AND SPECIAL LONDON MEETING

The April issue of the American Bar Association Journal, which journal can be purchased from Herrick's Book and Stationery Company, Denver, Colorado, contains the tentative program for the Philadelphia meeting. It also contains an invitation from the Lord Chief Justice of Ireland inviting the members to attend a dinner and reception in Dublin. The program as outlined will probably be one of the finest ever given by the National Association.

The number also contains a report of the meeting of the Denver Bar Association given in honor of the Hon. Robert E. Lee Saner, which meeting was held on March 3, 1924. There is a very interesting article on "National Bar Federalization"; preliminary survey of the problem by the President of the American Bar Association. It sets forth the reasons for the growing solidarity of the profession, and what benefits the National, State and Local Bar Associations might gain from federalization.

The Hon. Harlan F. Stone, Attorney General of the United States, has written a splendid article on the "Future of Legal Education."

The recent Supreme Court decisions of the United States are reviewed and we have further comments by P. J. Chamberlain, and Sterling Pierson on Zoning. All in all this month's copy of the American Bar Association Journal is by far one of the most interesting which has come out in years. There is even an article by Lord Morley, taken from the Law Journal. We always knew that our good friend Judge Morley was of blooded stock, but never knew before that he had a "Lord Morley" in his family.

From an address of Robert E. Lee Saner, President of the American Bar Association, delivered in Denver, March 3. —

"The political need of today is for men of education and character who will attend elections, caucuses and conventions as citizens and not simply as politicians. The caucuses and primaries are of more importance than the elections, and the conferences than the caucuses."

"Whatever you do, do it regularly and keep the pressure on."

"Beelzebub is not concerned with spasmodic citizenship activities. He is not disturbed by a reform movement or a New Year's resolution. He has his attorneys on permanent retainers, and keeps his lobbyists always on the job. If you are really going to beat him at this game you have got to join the organization, using such practical means as are at hand, and fight him with machine guns and not with mugwupian bean blowers. If fifty per cent, let us say, of the lawyers of this country acted on this principle, you could easily measure the total results in terms of a better citizenship and a better government."

"As lawyers, bound by oath to support the Constitution of the United States, we are by this very token bound to recognize that despotism either of a single ruler or the despotism of a mob, which may easily here and there temporarily become a majority, can be prevented only by standing squarely on our bill of rights embedded in the Constitution; that we must have the freest public discussion, whether by speech or through the press, that is consistent with well-defined limitations."

"Under our system, it is only on the anvil of the freest public discussion that the sparks of truth must be

hammered out. 'Stop the mouth and you stop civilization. Chain down every human right, but leave the right of speech free, and it will presently unchain all the rest.'"

"Against the radicalism of the soap box orator and the parlor Bolshevik we must exert the great conservative influence of the American Bar."

"Our American institutions are stable and safe only insofar as intelligent and patriotic citizens exert their influence in the formation of public opinion. As has well been said, 'If the Alps, piled high in cold and still sublimity, be the emblem of despotism, the ever restless ocean is ours, its waters being pure because never still.'"

"I urge upon lawyers as a class that they are failing in their political duties when they allow others to assume leadership in lines where the lawyer is peculiarly fitted to lead."

"We must make the people realize that while we must stand irrevocably for our Bill of Rights, the people as a whole must show themselves worthy of individual liberty; that freedom of speech, for example, is for those who know the speech of freedom; that when people talk about our needing a new constitution we should rather counsel them not to do anything rash until we really thoroughly try out the old one; and in view of the threatening advance of federal paternalism and beaureaucy, that the proper constitutional functioning of the federal and state governments is no less a vital issue today than it was in the times preceding our Civil War."

"It was a great responsibility that the people of the United States took upon themselves when, following their leaders, they decided to rule themselves. Lord Bryce, that profound British student of American government, gives it as his judgment



that while no government gives so much to its people as does a democracy, at the same time none demands so much of its citizens."

"It is no exaggeration to say, Brethren of the Bar, that we are today facing a real crisis in the development of our government. Certain radical doctrines are being promulgated and to a limited extent have already been enacted into law in some of our states, which if fully adopted must very materially change, if not indeed wholly undermine, the government established by our Constitution."

"It matters not to what particular party we belong or to what particular school of social or political philosophy, but it matters much that we unite on fundamental American doctrines, and that we insist in season and out of season that these doctrines shall be reflected in our laws and in popular support."

"The only forces that can preserve our republic are men with convictions and the courage of their convictions. When such a leader appears, see how the people applaud and follow him, even when he is simply performing his most obvious duty."

"What we need and what we must have is an active exercise of the duties of citizenship by men who stand outside of a party or class, whose sole motive and objective is the public weal, and who have the courage to tear a question open and let the light through it. We must have men who stand for the right, for justice, for liberty under the law, for government under the Constitution, and who will carry our Republic forward toward the fulfillment of its high mission as a leader and exemplar for the emulation and inspiration of all the nations of the earth."

"We have gathered today to renew

our oath in support of the Ark of our Covenant, the Constitution of the United States. And here upon the old altar of fervid faith and boundless administration let us pledge ourselves once more to be worthy of those great men in our profession who have wielded such a mighty influence in the founding and development of this government; to relight on this altar the torch of patriotism; to highly resolve that we will do our part towards maintaining the best traditions and well established institutions of America; to carry both in our waking hours and in our dreams a civic consciousness and conscience; to join the best thought and spirit in directing public opinion and thus to lift America above the slough of mercenary politics and becoming snares of communism, and to carry steadily forward as a government of liberty under the law, toward the shining heights which the hopes of its nativity foretold. Such is the glorious opportunity and the high mission of the American Bar in relation to the Government which we will support and defend and honor forever and a day—in the words of the old common law leases, 'As long as grass grows or water runs—forever!'"

#### A PLAIN QUESTION

Lawyer (to rattled witness)—Did you, or did you not, on the aforementioned day, Tuesday, January 19, 1896, feloniously and with malice aforethought listen at the keyhole of the third floor rear apartment, then occupied as a residence by the defendant in this action, on Nineteenth Street near Park Avenue, and did you not also on the Friday following the Tuesday in January, 1896, communicate to your wife the information acquired and repeat the conversation overheard as a result of your eavesdropping on that occasion, with the result that the gossip of your wife gave wide and far currency to the overheard conversation before-mentioned? Did you, or did you not? Answer "yes" or "no."

Witness—Huh?—Life.